



Walla Walla County  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
Record of Decision

For Ecology Use Only

Received: **RECEIVED**  
Date Stamp  
NOV 27 2013

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

Reviewed by: \_\_\_\_\_  
Date Reviewed: \_\_\_\_\_

Applicant: Brim field Steel

Application Number: WALL-13-07

This record of decision was made by a majority of the board at an open public meeting of the Walla Walla County Water Conservancy Board held on 11/6/13. The undersigned board commissioners certify that they each understand the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that each commissioner, having reviewed the report of examination, knows and understands the content of the report.

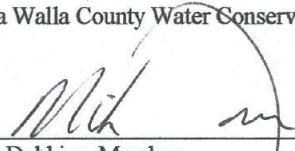
**X Approval:** The Walla Walla County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on 11/6/13 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Walla Walla County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on (date report of exam was signed) and submits this record of decision to the Department of Ecology for final review.


Signed:

  
\_\_\_\_\_  
Alan Kottwitz, Chair  
Walla Walla County Water Conservancy Board

Date: 11/6/13  
Approve ☒  
Deny ☐  
Abstain ☐  
Recuse ☐  
Other ☐

  
\_\_\_\_\_  
Mike Dobbins, Member  
Walla Walla County Water Conservancy Board

Date: 11/6/13  
Approve ☒  
Deny ☐  
Abstain ☐  
Recuse ☐  
Other ☐

  
\_\_\_\_\_  
Brian Worden, Member  
Walla Walla County Water Conservancy Board

Date: 11/6/13  
Approve ☒  
Deny ☐  
Abstain ☐  
Recuse ☐  
Other ☐

\_\_\_\_\_  
Drex Gauntt, Alternate  
Walla Walla County Water Conservancy Board

Date: \_\_\_\_\_  
Approve ☐  
Deny ☐  
Abstain ☐  
Recuse ☐  
Other ☐

\_\_\_\_\_  
(Name), (Title)  
(Board Name) Water Conservancy Board

Date: \_\_\_\_\_  
Approve ☐  
Deny ☐  
Abstain ☐  
Recuse ☐  
Other ☐

Mailed with all related documents to the Dept of Ecology Eastern Regional Office, and other interested parties on

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer





WALLA WALLA COUNTY  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF  
THE STATE OF WASHINGTON

RECEIVED

NOV 27 2013

Report of Examination

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

**NOTE TO APPLICANT:** Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

**NOTE TO AUTHOR:** Read the instructions for completing a water conservancy board report of examination. Use the F11 key to move through the form.

☐ Surface Water ☒ Ground Water

DATE APPLICATION RECEIVED July 3, 2013	WATER RIGHT DOCUMENT NUMBER GW 5260-A(A)	WATER RIGHT PRIORITY DATE	BOARD-ASSIGNED CHANGE APPLICATION NUMBER WALL-13-07
---	---	---------------------------	--

NAME BRIMFIELD STEEL, LLC	Attn: Reid Nelson	(CITY) Walla Walla	(STATE) Washington	(ZIP CODE) 99362
ADDRESS (STREET) 5188 Russell Creek Rd.				

**Changes Proposed:** ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal  
☒ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

**SEPA**

The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 142 (Additive)	MAXIMUM ACRE-FT/YR 152 (Additive)	TYPE OF USE, PERIOD OF USE 142 gallons per minute, 152 acre-feet per year, from January 1 to December 31, each year, for the seasonal irrigation of 55.45 acres.				
SOURCE A well (basalt aquifer)			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO. 330726310003	¼ NE	¼ SW	SECTION 26	TOWNSHIP N. 7	RANGE 33 E.	WRIA 32	COUNTY. Walla Walla
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED The E½ of the SW¼ and the W½ of the E½ of the SW¼ of Section 26, T. 7 N., R. 33 E.W.M. LESS the S½SW¼ of Section 26. ALL WITHIN T. 7 N., R. 33 E.W.M.							
PARCEL NO. 330726310003	¼	¼ SW	SECTION 26	TOWNSHIP N. 7	RANGE 36 E.		

Proposed Use

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 89 (Additive)	MAXIMUM ACRE-FT/YR 58.15 (Additive)	TYPE OF USE, PERIOD OF USE 89 gallons per minute, 58.15 acre-feet per year, from January 1 to December 31, each year, for the seasonal irrigation of 55.45 acres.				
SOURCE Three (3) wells (basalt aquifer)			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO. Well # 1: 360603510400 Well # 2: 360603510400 Well # 3: 360604400001	¼ NW SW NE	¼ NW NW SE	SECTION 3 3 4	TOWNSHIP N. 6 6 6	RANGE 36 E. 36 E. 36 E.	WRIA 32 32 32	COUNTY. Walla Walla Walla Walla Walla Walla
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED Lot 5 in Block 2; Lots 4, 5, 6, 7, and 8 in Block 3; Lots 1, 2, 3, 4, 5, 6, 7, and 8 in Block 4, ALL in J.L. Stubblefield Tracts, according to the Official Plat thereof of record in the Office of the Auditor of Walla Walla County, Washington, in Volume D of Plats at Page 62.  ALSO, Beginning at the Northwest corner of the Northeast quarter of the Southeast quarter of Sec. 4, T. 6 N., R. 36 E.W.M., and running thence East 39.47 chains to the Northeast corner of the Northwest quarter of the Southwest quarter of Sec. 3 in said Township and Range; thence South 29.50 chains to the North side of the County Road in said Sec. 3; thence Westerly, along the North line of said County Road, 43.07 chains to the West line of the Northeast quarter of the Southeast quarter of said Sec. 4; thence North 12.97 chains to THE POINT OF BEGINNING.  Situated in Walla Walla County, State of Washington.							
PARCEL NO. Various	¼	¼	SECTION 3 & 4	TOWNSHIP N. 6	RANGE 36 E.		



Board's Decision on the Application

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 89 (Additive)	MAXIMUM ACRE-FT/YR 58.15 (Additive)	TYPE OF USE, PERIOD OF USE 89 gallons per minute, 58.15 acre-feet per year, from January 1 to December 31, each year, for the seasonal irrigation of 55.45 acres.				
SOURCE Three (3) wells (basalt aquifer)			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED:							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
Well # 1: 360603510400	NW	NW	3	6	36 E.	32	Walla Walla
Well # 2: 360603510400	SW	NW	3	6	36 E.	32	Walla Walla
Well # 3: 360604400001	NE	SE	4	6	36 E.	32	Walla Walla
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
Lot 5 in Block 2; Lots 4, 5, 6, 7, and 8 in Block 3; Lots 1, 2, 3, 4, 5, 6, 7, and 8 in Block 4, ALL in J.L. Stubblefield Tracts, according to the Official Plat thereof of record in the Office of the Auditor of Walla Walla County, Washington, in Volume D of Plats at Page 62.							
ALSO, Beginning at the Northwest corner of the Northeast quarter of the Southeast quarter of Sec. 4, T. 6 N., R. 36 E.W.M., and running thence East 39.47 chains to the Northeast corner of the Northwest quarter of the Southwest quarter of Sec. 3 in said Township and Range; thence South 29.50 chains to the North side of the County Road in said Sec. 3; thence Westerly, along the North line of said County Road, 43.07 chains to the West line of the Northeast quarter of the Southeast quarter of said Sec. 4; thence North 12.97 chains to THE POINT OF BEGINNING.							
Situating in Walla Walla County, State of Washington.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE		
Various			3 & 4	6	36 E.		

NOTE: This change to GW Cert. No. 5260-A(B) is being evaluated concurrently with a change application to GW Cert. No. G3-29233(B), which authorizes irrigation of the same 55.45 acres. Together, through approval of these two change applications, the water right allocations for the subject property are as follows:

Combined Allocations – Changes to GW Cert. Nos. 5260-A(B) & G3-29233(B)

Proposed Cert. No	Acres	Gallons per Minute	Acre-feet	Purpose
GW Cert. No. 5260-A(B)	55.45	142	152	Irrigation
GW Cert. No. G3-29233(B)	55.45	89	58.15	Irrigation
Totals	55.45	231	210.15	



## DESCRIPTION OF PROPOSED WORKS

Three (3) basalt aquifer wells, pumps, mainline, high efficiency irrigation systems.

## DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: March 1, 2014	COMPLETE PROJECT BY THIS DATE: March 1, 2018	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: March 1, 2019
--	---	--

## REPORT

### BACKGROUND

On July 3, 2013 Brimfield Steel, LLC of Walla Walla, Washington filed an application to change the point of withdrawal, add 2 points of withdrawal, and change the place of use of 56.8 acres of water right under Ground Water Certificate No. 5260-A(B) {Cert. No. 5260-A(B)}. The application was accepted at an open public meeting on July 3, 2013, and the Board assigned application number WALL-13-07.

#### *Attributes of the water right as currently documented*

Name on certificate, claim, permit:	Shirley Hindman
Water right document number:	Ground Water Certificate No. 5260-A(B)
As modified by certificate of change number:	N/A
Priority date, first use:	May 17, 1965
Water quantities:	Qi: 142 gpm                      Qa: 152 acre ft./ year
Source:	A well (basalt aquifer)
Point of diversion/withdrawal:	NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 26, T. 7 N., R. 33 E.W.M.
Purpose of use:	Irrigation of 56.8 acres
Period of use:	January 1 to December 31, each year
Place of use:	The E $\frac{1}{3}$ of the SW $\frac{1}{4}$ and the W $\frac{1}{2}$ of the E $\frac{2}{3}$ of the SW $\frac{1}{4}$ of Section 26, T. 7 N., R. 33 E.W.M. Less the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 26. ALL WITHIN T. 7 N., R. 33 E.W.M.

#### Existing provisions:

"The division of Ground Water Certificate No. 5260-A into Superseding Certificate Nos. 5260-A(A) and 5260-A(B) shall not be construed as validation as to the extent of beneficial use under Certificate No. 5260-A as originally authorized. The amounts provided on the superseding portions of said water right reflect agreement among the owners of the described place of use, but are not confirmed by Ecology in this recording of the division of said right. The actual amounts authorized by the superseding certificates are subject to the historic beneficial use of water under Certificate No. 5260-A."

"The right to use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in RCW 90.03.380, 90.03.390, and 90.44.100."

"This superseding certificate of water right is specifically subject to relinquishment for non-use of water as provided in Chapter 90.14 RCW."

#### *Tentative determination of the water right*

The tentative determination is provided on the front page of this report.

#### *History of water use*

Cert. No. 5260-A originally issued to Arlt Brothers on October 25<sup>th</sup>, 1965. The lands to which this right issued had been irrigated previously under other existing rights, including Ground Water Certificate Nos. 3030-A and 3817-A, both of which authorize the withdrawal of water from alluvial aquifer wells, and Ground Water Cert. No. G3-29233(B). Certificate No. G3-29233C issued subsequent to Cert. No. 5260-A, and authorized withdrawal of water from the same basalt well as that approved under Cert. No. 5260-A. This right provided additional instantaneous and annual quantities to those authorized under Cert. No. 5260-A.

The 160 acres authorized for irrigation, and more specifically the 56.8 acres proposed for transfer herein, have been irrigated continuously since Cert. No. 5260-A was first issued. Since at least the 1980's the land was in an alfalfa seed/wheat rotation. With a change in ownership in the mid-2000's, the crop type transitioned from alfalfa seed to irrigated pasture for cattle, which was irrigated through 2011. Cert. Nos. G3-29233(B) and 5260-A(B) were placed into the Walla Walla Management Partnership Water Bank for the 2013 irrigation season.



**Previous changes**

Cert. No. 5260-A was the subject of an Administrative Division between the two owners of the authorized place of use, resulting two superseding certificates: Cert. No. 5260-A(A), which issued to Tom Runcorn, and Cert. No. 5260-A(B), which issued to Shirley Hindman and which is the subject water right for this application. This administrative division was completed in 2013, with superseding certificates issuing on September 12, 2013. There were no changes or divisions made to the original water right prior to this administrative division.

A companion basalt aquifer right, Ground Water Certificate No. G3-29233C, authorized irrigation of the same lands and withdrawal of water from the same well as Cert. No. 5260-A. This right was also subjected to an Administrative Division at the same time as that completed for Cert. No. 5260-A. There is a concurrent change application on file for that portion of this basalt aquifer water right associated with Cert. No. 5260-A(B), being Ground Water Certificate No. G3-29233(B).

**SEPA**

The board has reviewed the proposed project in its entirety. The board has reviewed the proposed project in its entirety. A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic feet per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gallons per minute;
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions it is categorically exempt from SEPA and a threshold determination is not required.

**Statutory Requirements/Authorities for Proposed Change**

The following is a list of pertinent Washington State Statute and Case Law requirements that must be considered prior to authorizing the proposed change in place of use and point of withdrawal:

RCW 90.03.380(1) states that a water right which has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

The Washington Supreme Court has held that when processing an application for change to a water right, a tentative determination of extent and validity of the claim or right is required. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

RCW 90.44.100 allows amendment of a ground water right to (1) allow the user to construct a replacement or additional well at a new location outside of the location of the original well, or to (2) change the manner or place of use of the water, if:

- The additional or replacement well taps the same body of public ground water as the original well. RCW 90.44.100(2)(a).
- Where a replacement well is approved, the user must discontinue use of the original well and properly decommission the original well. RCW 90.44.100(2)(b).
- Where an additional well is constructed, the user may continue to use the original well, but the combined total withdrawal from all wells shall not enlarge the right conveyed by the original permit or certificate. RCW 90.44.100(2)(c).
- Other existing rights shall not be impaired. RCW 90.44.100(2)(d)

**Other**

N/A

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.

**COMMENT AND PROTESTS**

Public notice of the application was given in the Waitsburg Times on September 12<sup>th</sup> and 19<sup>th</sup>, 2013. The protest period ended on September 21<sup>st</sup>, 2013.

There were no protests received during the 30 day protest period. In addition, no oral and written comments were received at an open public meeting of the board or other means as designated by the board.

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.



## INVESTIGATION

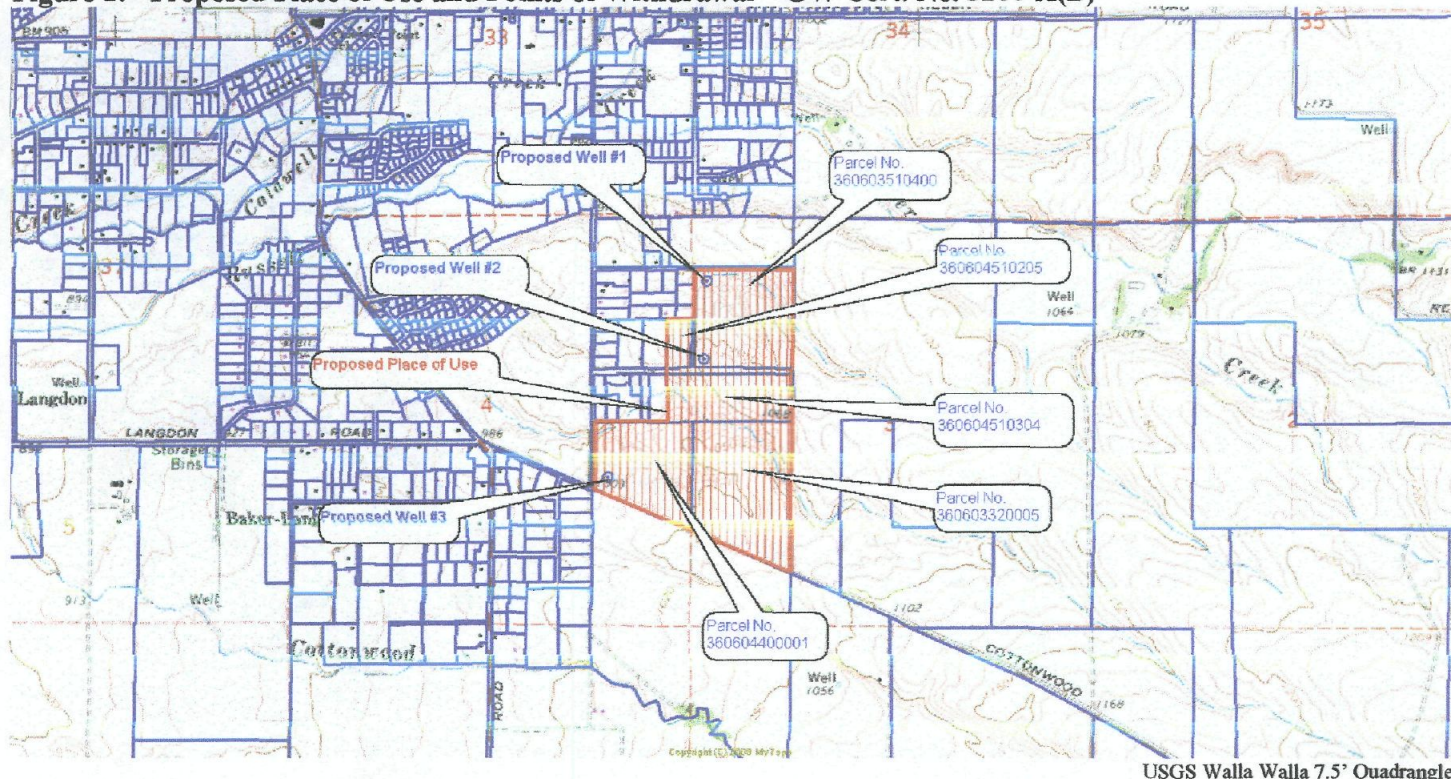
The following information was obtained from various site inspections conducted by Bill Neve on during the summer of 2013, and a site visit by Board Member Mike Dobbins on 10/23/13, technical reports, research of department records, conversations with the current landowner and the applicant and/or other interested parties, and a variety of other data sources. The following are some of the primary information/data sources obtained and utilized in this investigation:

- Agency water right file for Cert. No. 5260-A
- Farm Service Agency (FSA) cropping records
- Relevant technical reports
- U.S. Geological Survey topographic maps
- Aerial photos
- Department of Ecology's Water Right Tracking System (WRTS) database/Water Resource Explorer website
- Review of applicable laws, site visits, rules and policies
- Conversations with the applicant representative, Reid Nelson, and the current right holder, Shirley Hindman.

### *Proposed project plans and specifications*

The applicant proposes to drill up to three basalt aquifer wells at the proposed place of use, which is situated just south of the City of Walla Walla (Figure 1). The applicant intends to use state of the art irrigation systems to irrigate up to 56.8 acres within the proposed place of use. A 5 year development schedule should be considered adequate for construction of the wells and full beneficial use of the water right. It is anticipated that there will be minimal effect on neighboring basalt aquifer wells, and no impact to instream flows of basin surface waters.

**Figure 1: Proposed Place of Use and Points of Withdrawal – GW Cert. No. 5260-A(B)**



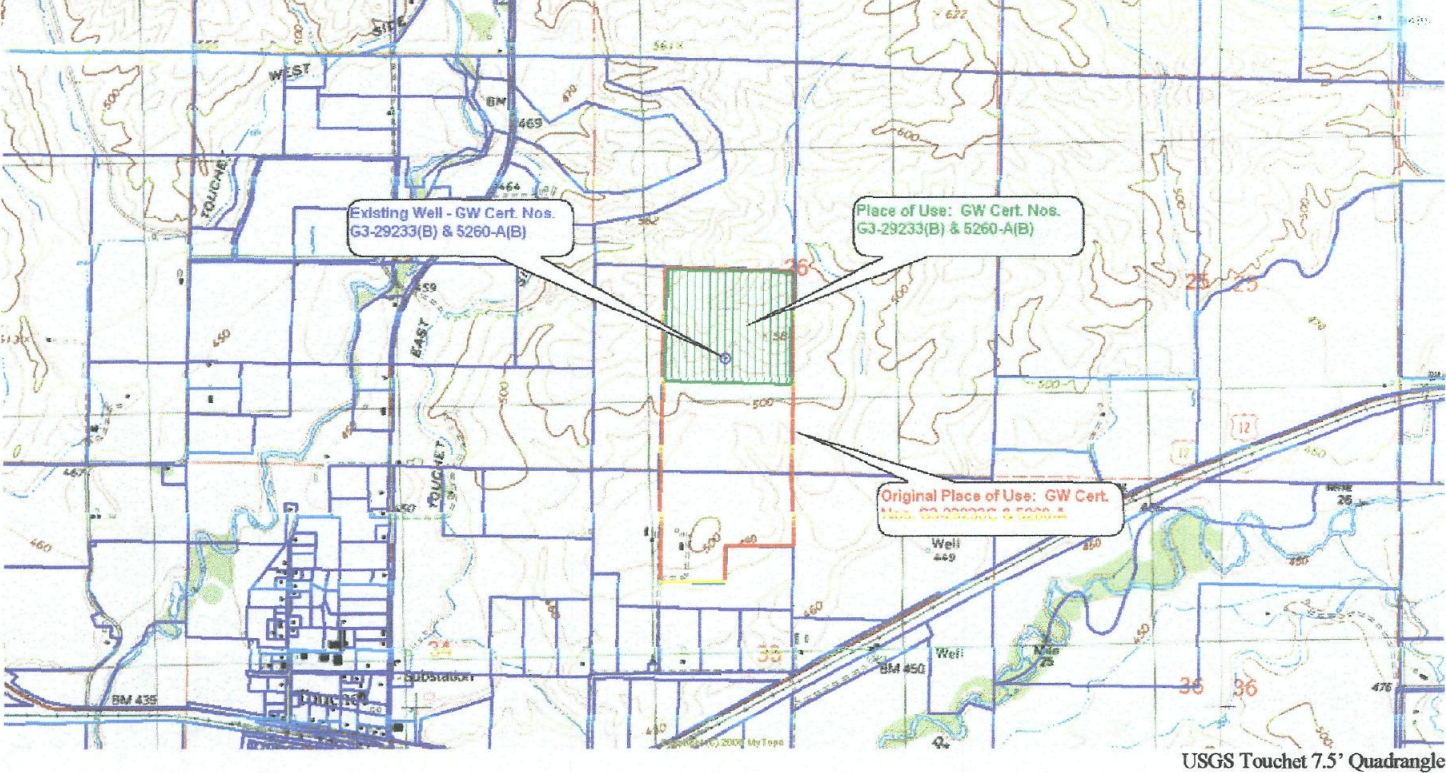
### *Other water rights appurtenant to the property (if applicable)*

**Existing Place of Use:** There were originally four (4) water rights appurtenant to the authorized place of use of Cert. No. 5260-A(B). These were Ground Water Certificate No. G3-29233C, which is additive in Qi and Qa to the quantities allocated under Cert. No. 5260-A(B), and Ground Water Certificate Nos. 3817-A and 3030-A, both of which authorize the withdrawal and use of water from the upper alluvial aquifer.

The original place of use for all four of these water rights is a rectangular shaped parcel oriented in a north-south direction (Figure 2). The basalt aquifer well is located on the northern part of this property, which is owned by the applicant. The alluvial aquifer wells are located on the southern end of these lands, which is property currently owned by Tom Runcorn. The elevation difference between the location of the basalt aquifer well at the northern end and the alluvial aquifer wells towards the southern end is approximately 100 feet. Since the time Cert. No. G3-29233C issued in 1992, the basalt aquifer well has been used exclusively to irrigate the 56.8 acres proposed for transfer herein, as the elevation difference made it impractical to pump water from the alluvial wells uphill to this property. The applicant therefore voluntarily relinquished all right and claim to Ground Water Certificate Nos. 3817-A and 3030-A, at the time the Administrative Divisions of Cert. No. G3-29233C and Cert. 5260-A were completed. Should this transfer and the companion change application to Cert. No. G3-29233(B) be approved, there will be no existing water rights appurtenant to the subject 56.8 acres.



Figure 2: Existing Place of Use & Point of Withdrawal – GW Cert. No. 5260-A(B)



A summary of Certificate Nos. G3-29233(B) and 5260-A(B), and their relationship to each other, is provided in Table 1, below.

Table 1: Summary of Ground Water Cert. Nos. 5260-A(B) and G3-29233(B)

Proposed Cert. No	Acres	Gallons per Minute	Acre-feet	Purpose
GW Cert. No. 5260-A(B)	56.8	142	152	Irrigation
GW Cert. No. G3-29233(B)	56.8	89	142	Irrigation
Totals	56.8	231	227.2	

**Proposed Place of Use:** There are no existing water rights appurtenant to the proposed place of use.

**Public Interest (groundwater only)**

The proposed transfer is subject to RCW 90.44.100 and therefore, cannot be detrimental to the public interest, including impacts on any watershed planning activities. The changes proposed for this right included changing the location of the authorized point of withdrawal, adding two points of withdrawal, and changing the place of use under Cert. No. 5260-A(B). Expressions of public interest for these proposed changes potentially include: comments or protests regarding approval of the proposed change; the Walla Walla County Municipal Code; and the WRIA 32 Watershed Plan.

- a. **Comments/Protests:** No comments or protests were received regarding potential approval of the proposed changes.
- b. **Walla Walla County Municipal Code (Codified as Ordinance 369, November 10, 2008):** The area within which this project is located is zoned 'Rural Residential – 5 acre minimum lot size'. The proposed changes are consistent with the current zoning.
- c. **WRIA 32 Watershed Plan:** The locally developed and approved WRIA 32 Walla Walla Basin Watershed Plan expressed a desire that new water rights or changes to existing water rights not negatively impact streams, springs, or wells hydraulically connected to surface waters sources within WRIA 32. This application involves changing the point of withdrawal, adding two points of withdrawal, and changing the place of use to Cert. No. 5260-A(B) to allow for irrigation of the same number of acres which have been irrigated historically under this right. The existing and proposed wells utilize the basalt aquifer as the authorized source of water; the basalt aquifer is not considered to have a significant hydraulic connection with basin surface water streams. The proposed application would not expand or otherwise enhance the quantities of water put to historic beneficial use under Cert. No. 5260-A(B). As such, the proposed change is consistent with the WRIA 32 Watershed Plan, in that the proposed changes will not negatively impact any surface waters in the basin.

**Tentative Determination**

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings:

Cert. No. 5260-A(B) authorizes a maximum withdrawal of 142 gallons per minute, 152 acres feet per year, for the seasonal irrigation of 56.8 acres. For purposes of this tentative determination, each component of water use will be evaluated separately.



**Instantaneous Quantity (Qi):** The combined instantaneous quantity authorized for withdrawal under the undivided certificate numbers 5260-A and G3-29233C is 650 gallons per minute. The basalt aquifer well authorized for use under these two rights has historically had the capacity to pump the full instantaneous quantities authorized. A new 60 HP submersible turbine with a variable speed drive was installed in the well in 2009. The authorized place of use these two water rights was divided in 2012, with the upper 55+ acres of the land being retained by the applicant and the remaining property being sold to Tom Runcorn. The subject well is currently shared between the two landowners. The upper end of the property owned by the applicant has been historically irrigated using handline irrigation methods. The applicant's property was most recently irrigated with a standard setup of two lines at a time set up with a total of 80 sprinklers running 5 gallon per minute heads, or approximately 400 gallons per minute. Cert. Nos. G3-29233C and 5260-A were divided between the two landowners in September of 2013, with the applicant retaining 142 gallons per minute under Cert. No. 5260-A(B), and an additional 89 gallons per minute under Cert. No. G3-29233(B). The full 142 gallons per minute requested for transfer herein can be considered valid and available for consideration for change under this application.

**Acres:** A review of Farm Service Agency (FSA) records, aerial photos, and Ecology records were conducted to determine the extent of acres actually irrigated under this water right. The FSA records from 2005 to 2012 show a crop rotation including wheat, pasture and sunflowers being grown (Table 2). Prior to 2006, back to at least 1989, this land was in an alfalfa seed/wheat rotation.

**Table 2: GW Cert. No. 5260-A(B) – Irrigated Crop Type 2005-2011**

Year	Crop Types
2012	Wheat/Fallow – non-irrigated <sup>1</sup>
2011	Pasture
2010	Pasture
2009	Pasture
2008	Wheat
2007	Pasture
2006	Pasture (from applicant; no report on file with FSA)
2005	Alfalfa seed/Sunflower seed

Source: FSA Crop Type/Acreage Commodities Reports

<sup>1</sup> For the 2012 irrigation season, Cert. No. 5260-A(B) was placed into the WW Watershed Partnership Water Bank

When Cert. No. 5260-A(B) was administratively divided, it was done so on a proportionate basis, according to land ownership. Ecology has made a determination that water rights, or portions of water rights, may not be relinquished through the Administrative Division process. The proportionate division of acres of water right that was conveyed to Cert. No. 5260-A(B) through the division was 56.8 acres. Walla Walla County Assessor records show that that the area of the property retained by the applicant to be 55.45 acres, and FSA records confirm that those 55.45 acres have historically been irrigated in the crop types delineated in Table 2, above. A total of 55.45 irrigated acres is valid and available for consideration for the proposed transfer.

**Annual Quantity (Qa):** The annual quantity authorized for use under Cert. No. 5260-A(B) is 152 acre-feet for the irrigation of 56.8 acres. This annual quantity is additive to the 142 acre-feet allocated to these same 56.8 acres under Cert. No. G3-29233(B). Together these two rights total 294 acre-feet for the irrigation of 56.8 acres, or withdrawal of up to 5.18 acre-feet per acre. However, Cert. No. G3-29233C was provisioned such that the combined withdrawal of water between Cert. Nos. G3-29233C and 5260-A not exceed 640 acre feet for the irrigation of 160 acres, or 4 acre-feet per acre. Given the actual 55.45 acre size of the current place of use of Cert. Nos. G3-29233(B) and 5260-A(B), as described above, the maximum annual quantity allocated for consideration is 221.8 acre-feet per year.

The State of Washington Irrigation Guide (WIG) was used to estimate crop irrigation requirements in the area for crops grown (Table 2) on the subject property from 2005-2011 (Table 3). Ecology Guidance Document GUID 1210 - "Determining Irrigation Efficiency and Consumptive Use" was used to estimate the application efficiency for handline sprinklers.

**Table 3: WIG Crop Irrigation Requirements (Walla Walla) – GW Cert. No. 5260-A(B) (2005 – 2011)**

Year	Crop Type	CIR <sup>1</sup> (inches)	Irr. Efficiency	TIR <sup>2</sup> (inches)	Acre-feet (per acre)
2011	Pasture	34.83	75%	46.44	3.87
2010	Pasture	34.83	75%	46.44	3.87
2009	Pasture	34.83	75%	46.44	3.87
2008	Wheat	20.85	75%	27.80	2.32
2007	Pasture	34.83	75%	46.44	3.87
2006	Pasture	34.83	75%	46.44	3.87
2005 (split)	Alfalfa Seed	No allocations	75%	---	---
2005	Sunflower Seed	available for WW			

<sup>1</sup> Crop Irrigation Requirement

<sup>2</sup> Total Irrigation Requirement

The WIG data is based on historical (to the late 1980's) climatic information in the Walla Walla area. The existing place of use is located approximately equidistant from the US Bureau of Reclamation AGRIMET LeGrow station to the west, and the WIG Walla Walla data station to the east. Data from the AGRIMET station provides calculated crop irrigation requirements based on current weather information collected at the site. The climatic conditions at this station should more closely represent conditions at the existing place of use as opposed to the Walla Walla station, which experiences significantly higher precipitation due to the orographic effect of the Blue Mountains. For comparison purposes, the crop irrigation requirements using data from the AGRIMET LeGrow station are provided in Table 4.



Table 4: Crop Irrigation Requirements (AGRIMET – LeGrow station) – GW Cert. No. G3-29233(B) (2005 – 2011)

Year	Crop Type	CIR <sup>1</sup> (inches)	Irr. Efficiency	TIR <sup>2</sup> (inches)	Acre-feet (per acre)
2011	Pasture	32.8	75%	43.73	3.64
2010	Pasture	30.2	75%	40.27	3.36
2009	Pasture	33.0	75%	44.00	3.67
2008	Wheat	24.2	75%	32.27	2.69
2007	Pasture	33.5	75%	44.67	3.72
2006	Pasture	34.1	75%	45.47	3.79
2005 (split)	Alfalfa Seed	Not given for this crop type	75%	---	---
2005	Sunflower Seed		75%	---	---

<sup>1</sup> Crop Irrigation Requirement

<sup>2</sup> Total Irrigation Requirement

While somewhat lower in total irrigation requirement for pasture, the AGRIMET data is used here as a more current and representative estimate of crop irrigation requirement for the Touchet area. The highest one year of use calculated from this data would be for 2006, at 3.79 acre-feet per acre. At the total of 55.45 acres determined above to have actually been irrigated within the authorized place of use of Cert. No. 5260-A(B), a total of 210.15 acre-feet per year are tentatively determined to have been put to beneficial use. The maximum annual quantity allocated under Cert. No. 5260-A(B), which is the primary right for these 55.45 acres, is 152 acre-feet. Therefore, the annual quantity determined to be available for consideration under this application is 152 acre-feet per year, with the difference between the 210.15 acre-feet calculated to have been beneficially used and the 152 acre-feet allocated under Cert. No. 5260-A(B), being 58.15 acre-feet per year, are to be allocated through Cert. No. G3-29233(B) in that companion application.

The quantities of water tentatively determined to be valid and available for consideration for change/transfer under this application are 142 gallons per minute, 152 acre-feet per year, for the seasonal irrigation of 55.45 acres.

*Geologic, Hydrogeologic, or other scientific investigations (if applicable)*

Both the existing and proposed points of withdrawal for this change application are located within the Walla Walla Basin, a hydrologic sub basin of the Columbia Plateau. This basin developed as a structural trough within the Columbia River Basalt Group that was later overlain by unconsolidated sediments. The lowermost sediment unit is referred to as the “blue clay” which rests directly on the basalt basement rock. Directly overlying the “blue clay” and interfingered with it, is the gravel unit. The various unconsolidated gravels serve as the aquifer material which forms the uppermost, unconfined, water table aquifer. Aquifers are also present within the consolidated, Tertiary-aged, Columbia River Basalt Group. This underlying basalt aquifer system is composed of three primary formations, in descending order, the Saddle Mountains Basalt Unit, the Wanapum Basalt Unit, and the Grande Ronde Basalt Unit.

The basalt aquifer system is a series of zones some of which conduct water easily. These zones of high conductivity alternate with zones of dense basalt, which impede the flow of water and are considered to have low hydraulic conductivity. The highly permeable basalt zones range in thickness from a few feet to 25 feet. It is the composite of the permeable water conducting zones which provides the well with the capability of yielding the desired amount of water. Thus, generally, the deeper the well, the more water will be available since by going deeper more permeable zones will be penetrated.

The well authorized for use was completed in 1965 to a total depth of 863 feet. The Water Well Report shows the wellbore penetrating layers of gravel and clays to a depth of 328 feet, where basalt rock was first encountered. The well was cased to a depth of 566 feet.

U.S. Geological Survey Water Resources Investigation Report 87-4238, “Geologic Framework of the Columbia Plateau Aquifer System, Washington, Oregon and Idaho” was reviewed to obtain parameters of the basalt aquifer in the area of the existing and proposed wells. Information from the Report shows the top of the Wanapum Unit in the vicinity of the existing well to be approximately 340 feet below land surface, which corresponds to information entered into the well construction log. The total depth of the Wanapum Unit is estimated within the report to be ~1000 feet in thickness. This information would suggest that the existing well penetrates about ½ the total thickness of the Wanapum Unit, and withdraws water from within that formation.

The Report indicates that the top of the Wanapum Unit in the vicinity of the proposed wells is approximately 550 feet below land surface, and has a total thickness of approximately 800 feet. A review of Ecology well construction log files show 127 water well logs within a 1 miles radius of the proposed wells, with 27 of those being completed into the basalt rock. An examination of those basalt well logs shows the majority of the wells are drilled to depths of between 500 and 700 feet below land surface, which would put the bottom of these wells within the upper ½ of the Wanapum Unit. The logs show the majority of the static water levels between approximately 150 and 250 feet below land surface. The recorded yields of the wells are highly variable, ranging from 40 gallons per minute to over 1500 gallons per minute. It would appear that the overall yield is largely dependent upon the cased diameter of the well and the total depth to which the well was drilled.

It is expected that the proposed wells will be drilled into, and withdraw water from, the Wanapum Unit of the Columbia River Basalt Group. Information from the basalt well construction logs and associated water rights discussed above suggest that the basalt aquifer has the capacity to supply the proposed 231 gallons per minute under the combined change applications filed under Cert. Nos. 5260-A(B) and G3-29233(B). A review of Ecology records show no reported instances of well interference between wells completed into the basalt aquifer in the vicinity of the proposed wells.



Other information reviewed included a January 2008 Technical Memorandum prepared by GSI Water Solutions, Inc. for a client seeking recommendations on the drilling of a new well that would yield 150 gallons per minute. The location of the targeted well was approximately 3.5 miles to the northeast of the wells proposed for construction herein. The memo evaluated the construction and characteristics of wells constructed in the area, together with information from subsurface geologic mapping that GSI had completed in 2007. A conclusion from that memo was that an 8-inch well drilled to a total depth of 200-300 feet should produce the desired 150 gallons per minute.

### ***Statutory Requirements***

Applications for change of ground water rights permits and certificates and claims are governed by RCW 90.03.380, and RCW 90.44.100, which state in part that: the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued only on the conditions that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate
- An additional or new well shall withdraw water from the same source as the original
- The proposed change would not be detrimental to the public welfare.

### **No Detriment/Impairment to Existing Rights:**

"Impair" or "impairment" means to: 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection, and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) to adversely affect the flow of a surface water course at a time when the flows are at or below instream flow levels established by rule (POL-1200), and/or 4) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150). Demonstration of impairment would require evidence of a substantial and lasting or frequent impact reflecting such conditions.

The proposed changes in place of use, point of withdrawal, and the addition of two new points of withdrawal will not change the quantities of water historically pumped; the changes would actually reduce the maximum annual quantity of water which are currently authorized for withdrawal under a combination of Cert. Nos. 5260-A(B) and G3-29233(B). Water will be withdrawn by the proposed new wells from the same basalt aquifer system utilized by the existing well. There are no known instances of conflict between basalt wells in the vicinity of the proposed well that have led to a determination of impairment by Ecology. A review of ecology well log files suggest that the capacity of the basalt aquifer in this area is such that proposed changes to allow for the pumping of 210 acre-feet from three new basalt wells in this area should not create any impact to existing water withdrawals to the point where impairment could be determined to occur. It is also noted that this is not a new appropriation, but rather a change in place of use and points of withdrawal for quantities that have historically been pumped from the same aquifer in the same basin.

### **No Enhancement of the Original Right:**

The quantities of water tentatively determined to have been put to historic beneficial use, and the number of acres irrigated, will not increase through this change. The authorized annual quantities for Cert. Nos. 5260-A(B) and G3-29233(B) will actually be reduced by 83.85 acre-feet per year, and the irrigated area by 1.35 acres, through the changes to these two water rights to reflect quantities determined to have been relinquished due to non-use.

### **A Valid Right Exists that is Eligible to be Changed:**

For the purpose of evaluating this application, a tentative determination as to the extent and validity of Cert. No. 5260-A(B) was completed. The quantities of water determined to be valid and available for the changes requested through this application are 142 gallons per minute, 152 acre-feet per year, for the seasonal irrigation of 55.45 acres.

### **Same Source of Water:**

The existing and proposed points of withdrawal will both withdrawal water from the basalt aquifer within the Columbia River Basalt Group. The changed and additional points of withdrawal will remain within the same source of public ground water as the original well.

### **No Detriment to Public Welfare:**

Public notice of the application was provided in the Waitsburg Times, published in Walla Walla County, on September 12<sup>th</sup> and 19<sup>th</sup>, 2013. There were no protests received during the 30-day protest period following the last date of publication. There has been no public expression or protest or concern, either written or oral, regarding the subject proposal.

There are no findings in this investigation which would indicate that there would be any detrimental impact to the public welfare through issuance of the proposed change

### ***Other***

N/A

**The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions.**

## **CONCLUSIONS**



***Tentative determination (validity and extent of the right)***

A tentative determination as to the extent and validity of the subject right resulted in the following quantities determined to be available for the subject change: 142 gallons per minute, 152 acre-feet per year, for the seasonal irrigation of 55.45 acres.

***Relinquishment or abandonment concerns***

RCW 90.14.180 provides that:

*“Any person hereafter entitled to divert or withdraw waters of the state through an appropriation authorized under RCW 90.03.330, 90.44.080, or 90.44.090 who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to withdraw for any period of five successive years shall relinquish such right or portion thereof, and such right or portion thereof shall revert to the state, and the waters affected by said right shall become available for appropriation in accordance with RCW 90.03.250. All certificates hereafter issued by the department of ecology pursuant to RCW 90.03.330 shall expressly incorporate this section by reference.”*

The difference between the tentative determination of the extent and validity of Cert. No. 5260-A(B) determined above, being 142 gallons per minute, 152 acre-feet per year, for the seasonal irrigation of 55.45 acres, and those quantities issued through the original certificate, being 142 gallons per minute, 152 acre-feet per year, for the seasonal irrigation of 56.8 acres, equate to the irrigation of 1.35 acres. The instantaneous and annual quantities allocated in Cert. No. 5260-A(B) and evaluated through this application have been determined to have been used to their full extent.

Based on a review of the exceptions to relinquishment for non-use of water for 5 successive years provided in RCW 90.14.140, it appears that 1.35 acres of irrigation, as authorized through the original certificate, are subject to relinquishment due to non-use without sufficient cause.

***Hydraulic analysis***

The hydraulic analysis for this proposed change indicate that: (1) Both the existing and proposed wells are (and will be) completed into, and withdraw water from, the Columbia River Basalt Group, and (2) both the existing and proposed new wells will withdraw water from the same body of public ground water.

***Consideration of comments and protests***

Public notice of the application was provided in the Waitsburg Times, published in Walla Walla County, on September 12<sup>th</sup> and September 19<sup>th</sup>, 2013. There were no protests received during the 30-day protest period following the last date of publication. Likewise, no comments or objections regarding this application were received at open public meetings of the Board.

***Impairment***

There is no evidence that the proposed changes would impair any existing water rights.

***Public Interest***

No detriment to the public welfare was identified during the processing of this application. The proposed changes are consistent with WAC 173-532 (Water Resources Program for the Walla Walla River Basin, WRIA 32) and RCW 90.54 (Water Resources Act of 1971).

***Other***

The board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision.

**DECISION**

Applications for change of ground water rights permits and certificates and claims are governed by RCW 90.03.380 and RCW 90.44.100, which state in part that: the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells at a new location in substitution for, or in addition to, those at the original location, or he may change the manner or the place of use of the water. Such amendment shall be issued only on the conditions that:

- The change must not cause detriment or injury to existing rights;
- A valid right/claim exists that is eligible to be changed;
- The change shall not allow for the enhancement of the right perfected under the original certificate
- An additional or new well shall withdraw water from the same source as the original
- The proposed change would not be detrimental to the public welfare.

It is the conclusion of the Walla Walla County Water Conservancy Board that, in accordance with RCW 90.44.100:

1. The proposed changes in place of use, change in point of withdrawal, and the addition of two points of withdrawal will not impair existing rights, including instream flows established through WAC 173-532;
2. A valid right exists and is eligible to be changed to the extent the right has been put to historic beneficial use, as summarized above;



3. That the change will not expand or enhance the right which was perfected under the original certificate;
4. That the three proposed new wells will all withdraw water from the same basalt aquifer as the original well;
5. The proposed changes will not be detrimental to the public welfare.

The requested changes in place of use, change in point of withdrawal, and the addition of two new wells to Ground Water Certificate No. 5260-A(B) has passed the statutory tests and is approved in the amounts of 142 gallons per minute, 152 acre-feet per year, for the seasonal irrigation of 55.45 acres, subject to the provisions and conditions listed below.

**The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions and members of the Walla Walla County Water Conservancy Board.**

## PROVISIONS

### *Conditions and limitations*

#### **Wells, Well Logs and Well Construction Standards**

1. All wells constructed in the State shall meet the construction requirements of Chapter 173-160 WAC entitled *Minimum Standards for the Construction and Maintenance of Wells* and Chapter 18.104 RCW titled *Water Well Construction*.
2. The water user is required to maintain an access port to measure water levels within the authorized wells, as described in Ground Water Bulletin No. 1. An airline and gage may be installed in addition to the access port.
3. If/when any of the authorized wells are modified or replaced, a completed well report of the well(s) shall be submitted by the driller to the Department of Ecology within 30 days of completing the construction or modifications authorized herein. All pump test data for the (s) shall be submitted to the Department as it is obtained.
4. All wells shall be tagged with a Department of Ecology unique well identification number. If you have an existing well and it does not have a tag, please contact the well-drilling coordinator at the regional Department of Ecology office issuing this decision. This tag shall remain attached to the well. If you are required to submit water measuring reports, reference this tag number.

#### **Measurements, Monitoring, Metering and Reporting**

5. An approved measuring device shall be installed and maintained for each of the sources authorized by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173. WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements"  
<http://www.ecy.wa.gov/programs/wr/measuring/measuringhome.html>
6. Water use data shall be recorded monthly. The maximum rate of diversion/withdrawal and the annual total volume shall be submitted to the Department of Ecology by January 31st of each calendar year.
7. Reported water use data shall be submitted via the Internet or by using the enclosed forms. To set up an Internet reporting account, access <https://fortress.wa.gov/ecy/wrx/wrx/Meteringx/>. If you have questions or need additional forms, contact the Eastern Regional Office.
8. A future Superseding Certificate for Ground Water Certificate No. 5260-A(B) will not be issued until evidence of meter installation has been submitted to the Department of Ecology.

#### **Quantity Limits, Flow and Regulation**

9. These changes do not authorize an enlargement of those quantities in gallons per minute, acre-feet per year, or total irrigated acres as described under Ground Water Certificate No. 5260-A(B).
10. The combined withdrawal under Ground Water Certificate Nos. 5260-A(B) and G3-29233(B) shall not exceed 231 gallons per minute, 210.15 acre-feet per year, for the seasonal irrigation of 55.45 acres.

#### **Schedule and Inspections**

11. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.
12. The water right holder shall file the notice of project completion when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The superseding certificate will reflect the extent of beneficial use within the limitations of the change authorization. Elements of the project completion inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and compliance with provisions.
13. A final water superseding certificate will not issue until a final examination is made.



General Conditions

- 14. Issuance of a water right change authorization by this department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.
- 15. Use of water under this authorization shall be contingent upon the water right holder's maintenance of efficient water delivery systems and use of up-to-date water conservation practices consistent with established regulation requirements and facility capabilities.
- 16. This authorization to make use of public waters of the State is subject to existing rights, including any existing rights held by the United States for the benefit of Native Americans under Treaty or otherwise.
- 17. The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop(s) grown on the number of acres and the place of use specified.

Mitigation (if applicable)

N/A

Construction Schedule

A 5 year development schedule (1 year to begin construction, 3 years to complete construction, 1 year to put water to full use) should be sufficient to complete the changes approved herein.

Other

Drost, B.W., Whiteman, K.J., and Gonthier, J.B. 1990. Geologic Framework of the Columbia Plateau Aquifer System, Washington, Oregon, and Idaho. Portland, Oregon. U.S. Geological Survey.

USDA Agricultural Research Station. State of Washington Irrigation Guide. 1986 (Amended 1990).

The information or conclusions in this section were authored and/or developed by Bill Neve of Water Right Solutions and members of the Walla Walla County Water Conservancy Board.

The undersigned board commissioner certifies that he/she understands the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Walla Walla, Washington  
This 6th day of November, 2013

\_\_\_\_\_  
Alan Kottwitz, Board Representative  
Walla Walla County Water Conservancy Board

*If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).*  
*Ecology is an equal opportunity employer*